

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 1486**

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**Introduced by Assembly Member Furutani**

February 27, 2009

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~~An act to amend Section 554 of the Labor Code, relating to employment.~~ *An act to add Section 6018.9 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 1486, as amended, Furutani. ~~Employment: days of rest. Sales and use taxes: nonprofit membership organizations.~~

*The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law, with certain exceptions, defines a retailer as a seller who makes any retail sale of tangible personal property and as a person who makes more than 2 retail sales of tangible personal property during any 12-month period, and defines a retail sale as a sale of tangible personal property for any purpose other than resale in the regular course of business.*

*This bill would provide that a membership organization, as described in Section 501(c) of the Internal Revenue Code, is the consumer, and not a retailer, of tangible personal property that it provides to its members, as provided, so that the retail sale subject to tax is the sale of tangible personal property to the membership organization.*

*The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity*

with the Sales and Use Tax Law, and the Transactions and Use Tax Law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated in these taxes. Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy, but its operative date would depend on its effective date.

~~Existing law provides that a person employed in any occupation of labor is entitled to one day's rest in 7 and prohibits an employer from requiring his or her employees to work more than 6 days in 7. However, existing law establishes exceptions from those provisions, except where a valid collective bargaining agreement that covers the hours of employees exists, for emergencies, other work performed in the protection of life or property from loss or destruction, common carriers engaged in or connected with the movement of trains, and employees in an agricultural occupation. Existing law also authorizes the Chief of the Division of Labor Standards to exempt other employers or employees to prevent hardship.~~

~~This bill would make nonsubstantive changes to those provisions related to those exemptions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 6018.9 is added to the Revenue and
- 2     Taxation Code, to read:
- 3     6018.9. An organization described in Section 501(c) of the
- 4     Internal Revenue Code is a consumer of, and shall not be
- 5     considered a retailer within the provisions of this part for purposes
- 6     of any transfer of, tangible personal property to its members, as
- 7     defined in Section 5056 of the Corporations Code, if the following
- 8     requirements are met:

1 (a) The tangible personal property bears a logo or other  
2 identifying mark of the organization and is a promotional item or  
3 other item commonly associated with use by a member to  
4 demonstrate the member's association with, or membership in,  
5 the organization.

6 (b) The cost to the member of the organization for the  
7 acquisition of the tangible personal property is not more than the  
8 cost to the nonprofit organization to obtain and transfer to the  
9 member the tangible personal property, including any applicable  
10 sales or use tax paid by the nonprofit organization.

11 (c) Reasonable steps are taken by the organization to ensure  
12 that no member is allowed to acquire more than 30 identical items  
13 of tangible personal property or to resell the items to another  
14 person.

15 SEC. 2. Notwithstanding Section 2230 of the Revenue and  
16 Taxation Code, no appropriation is made by this act and the state  
17 shall not reimburse any local agency for any sales and use tax  
18 revenues lost by it under this act.

19 SEC. 3. This act provides for a tax levy within the meaning of  
20 Article IV of the Constitution and shall go into immediate effect.  
21 However, the provisions of this act shall become operative on the  
22 first day of the first calendar quarter commencing more than 90  
23 days after the effective date of this act.

24 ~~SECTION 1. Section 554 of the Labor Code is amended to~~  
25 ~~read:~~

26 ~~554. (a) Sections 551 and 552 shall not apply to any cases of~~  
27 ~~emergency nor to work performed in the protection of life or~~  
28 ~~property from loss or destruction, nor to any common carrier~~  
29 ~~engaged in or connected with the movement of trains. This chapter,~~  
30 ~~with the exception of Section 558, shall not apply to any person~~  
31 ~~employed in an agricultural occupation, as defined in Order No.~~  
32 ~~14-80 (operative January 1, 1998) of the Industrial Welfare~~  
33 ~~Commission. This chapter does not prevent an accumulation of~~  
34 ~~days of rest when the nature of the employment reasonably requires~~  
35 ~~that the employee work seven or more consecutive days, if in each~~  
36 ~~calendar month the employee receives days of rest equivalent to~~  
37 ~~one day's rest in seven. The requirement respecting the equivalent~~  
38 ~~of one day's rest in seven shall apply, notwithstanding the other~~  
39 ~~provisions of this chapter relating to collective bargaining~~  
40 ~~agreements, where the employer and a labor organization~~

1 ~~representing employees of the employer have entered into a valid~~  
2 ~~collective bargaining agreement respecting the hours of work of~~  
3 ~~the employees, unless the agreement expressly provides otherwise.~~  
4 ~~(b) In addition to the exceptions specified in subdivision (a),~~  
5 ~~the Chief of the Division of Labor Standards Enforcement may,~~  
6 ~~when in his or her judgment hardship will result, exempt an~~  
7 ~~employer or employees from the provisions of Sections 551 and~~  
8 ~~552.~~

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